Iowa Department of Transportation

Federal Transportation Briefing

A Periodic Report on Federal Transportation Activities

Issue # 148 August 2, 2014

Highway Trust Fund

Congress kept the Highway Trust Fund issue in play until the very last minute this week, passing HR 5021 on Thursday to keep funds flowing to states until about May 31, 2015. The decisive vote came just a few hours before legislators walked out the door for the annual August recess - and just days before USDOT took action to slow highway funding reimbursements to states.

Earlier in the week, the Senate overwhelmingly approved an amendment to HR 5021 that would have shortened the duration to mid-December, 2014, thereby encouraging quicker action on a longer-term solution. Specifically, the amendment would have extended spending authority only to Dec. 19, 2014, and was intended to provide revenue for approximately the same time period by lowering the amount by about $3 billion. This was accomplished by removing the "pension smoothing" revenue provision. However, the Congressional Budget Office ruled that another offset (involving customs fees) raised less revenue than assumed in the Senate's calculations.

Subsequently, the House rejected the Senate's version, prompting the Senate to withdraw the amendment by a vote of 81-13, effectively sending HR 5021 directly to the president's desk for signature.

Funding/authorization expiration dates:
Sept. 30, 2014 – transportation appropriations (HR 3547, T-HUD)
Sept. 30, 2019 - water resource and development programs (WRRDA of 2014)
Sept. 30, 2013 - passenger rail and freight safety programs (PRIIA of 2008)
Sept. 30, 2014 - surface transportation programs (MAP-21)
Sept. 30, 2015 - aviation programs (Air Transportation Modernization & Safety Improvement Act, 2012)

Background

Annual Transportation Appropriations

Congressman Paul Ryan's FY 2015 budget proposal, reported out of the House Budget Committee the week of March 31 on a 22-16 vote, would allow transportation funding to go over the "fiscal cliff." In contrast to the administration proposal and also a tax reform plan from Ways and Means Chair Camp released last month, the House FY 2015 budget contains no provisions to address the Highway Trust Fund shortfall, expected to begin impacting the rate of reimbursements to states by this summer. In addition, states would be prevented from obligating any new highway projects in FY 2015. This would allow for existing revenues to sustain higher levels of investing in FY 2016.

Without additional revenues for the Trust Funds, outlays for FY 2015 under the Ryan proposal would be reduced by $13 billion. However, since FY 2015 funding is already established (via the Ryan-Murray agreement signed four months ago), the new proposal is unlikely to take effect.

A House-proposed FY 2015 budget, voted out of committee last month, would have allowed transportation funding to go over the "fiscal cliff." However, that proposal is no longer in play. Amounts published in the April 29 Congressional Record by Budget Committee Chairman Paul Ryan and approved in subcommittee yesterday adhere instead to those agreed to in the Ryan-Murray Bipartisan Budget Act, which allows for FY 2015 transportation funding at MAP-21 levels (but it does not address the shortfall).

Against that backdrop, Representative Tom Latham, chair of the House Transportation-Housing and Urban Development Appropriations subcommittee released an FY 2015 T-HUD appropriations bill on May 6, and says he plans to mark it up on May 7. Funding for highway, transit and aviation apportionments stay at FY 2014 levels. The TIGER program would be cut to $100 million, down from the current $600 million; also, eligible projects would be limited to highway, freight rail and ports.

On the Senate side, T-HUD Appropriations Subcommittee Chairwoman Patty Murray has not announced a markup schedule, but has repeatedly spoken on the floor about the impending transportation funding crisis.

The House has reported out its FY 2015 appropriations bill for Transportation, Housing and Urban Development. HR 4745 would maintain FY 2014 obligation limitation levels for highway, transit, and the Airport Improvement Program. The TIGER program would be continued, but reduced from the current $600 million down to $100 million, with projects restricted to highway, freight rail and ports only. Floor action is likely the week of June 9.

The Senate has not yet released its proposal. However, subcommittee markup is scheduled for June 3, with a full committee vote on June 5.

Yesterday, the Senate Appropriations Committee reported out its FY 2015 bill for Transportation, Housing and Urban Development (T-HUD). Like the House proposal, S. 2438 would maintain the current obligation limitation of $40.256 billion for highway programs. For most other programs, however, Senate amounts are somewhat higher than in the House. Under S. 2438:

- The obligation limitation for transit would increase by $309 million over FY 2014 to $11.1 billion.
- The Airport Improvement Program would be funded basically at current levels after certain transfers between accounts. $149 million is included to staff contract towers.
- A TIGER program is included, but reduced slightly to $550 million, down from $600 million in FY 2014. (This is still, however, much higher than the House proposal of $100 million.)
- Amtrak would stay at the current $1.39 billion. The bill also addresses safe rail transportation of crude oil, such as by providing $3 million to expand the use of automated track inspection, and requiring quick completion of federal rules for a certain type of unpressurized tank car ("DOT-111").

During markup, senators approved an amendment to temporarily suspend (through September 2015) two specific provisions of the new FMCSA hours-of-service rules for truck drivers. In the interim, FMCSA would conduct a study on the potential impacts of changes to requirements that drivers rest for two consecutive nights between 1 a.m. and 5 a.m., and the once-per-week clock restart limit.

Senator Reid has reserved floor time for the bill during the last two weeks in June.

Work on FY 2015 appropriations for transportation is at an impasse in the Senate. Senator Mikulski, who chairs the Appropriations Committee, has combined the Transportation-Housing and Urban Development bill (S 2438) with two others to form a "minibus" under HR 4660. But floor debate scheduled for Thursday afternoon was deferred due to a leadership dispute over vote thresholds for some amendments. If no agreement is reached in the coming weeks, a short-term continuing resolution will be necessary before the current bill expires Sept. 30.

The House passed its T-HUD proposal, HR 4745, on June 9.

Aviation Reauthorization

The multi-year aviation authorization bill, known as Vision 100 (PL 108 -176), expired on October 1, 2007, and programs have been continuing under a series of authorization extensions. Multi-year authorization bills have been passed by the Senate on March 22 and by the House on March 25 as separate amendments to HR 1586. A conference committee will resolve the differences between the two proposals. In the meantime, aviation programs received yet another short-term extension.

On September 30, 2010, the president signed an extension, until December 31, 2010, since several issues remain to be resolved.

On December 2 the House passed a bill to extend aviation programs and excise taxes through March 31, 2011. The three-month extension is the 17th short-term extension since the last FAA reauthorization bill expired more than three years ago. The Senate would still need to act on this bill.

Extension of aviation programs (through March 31, 2011) was carried out through HR 6473 which was signed on Dec. 22.

During the week of Jan. 24, aviation reauthorization moved to the forefront, with House Transportation and Infrastructure (T&I) Committee chair John Mica citing it as his first priority, and Senate Majority Leader Reid calling it the Senate's first order of business.

The Senate began debate the week of Jan. 31 on S. 223 to reauthorize FAA programs and airport and airway trust fund expenditures. Several amendments were offered, but at this point the bill was still mostly identical to HR 1586 that passed the Senate 93-0 last year. S 223 would fund AIP at $4 billion, and authorize $35 million per year for the Small Community Air Service program. An amendment has been offered that would eliminate the Essential Air Service program that provides funds to many small airports. The FAA has operated under short-term extensions since 2007.

Senator Reid intends to end debate on FAA reauthorization bill S 223 on Feb. 14, with the most contentious issue being the number of slots at Reagan National. The Senate Finance

Committee reported out a new tax title which includes many features of the bill passed unanimously by the Senate last session: an increase in the jet fuel tax – to 36 cents per gallon (up from 22 cents); and a 14.1 cent per gallon surcharge on "fractionals" (aircraft owned by share holders or multiple parties). The committee also adopted an amendment limiting expenditures from the Airport and Airway Trust Fund to 90 percent of the estimated revenue for that year.

The Senate passed FAA reauthorization bill S 223 on Feb. 18 after a compromise was reached on slots at Reagan National that adds 12 round-trip beyond-the-perimeter flights per day. The two-year aviation proposal includes an increase in the jet fuel tax to 36 cents per gallon (up from 22 cents); and a 14.1 cent per gallon surcharge on "fractionals" (aircraft owned by share holders or multiple parties). An amendment adopted in committee would limit expenditures from the Airport and Airway Trust Fund to 90 percent of the estimated revenue for that year. The cap on PFCs would not be raised. An amendment that would have eliminated the Essential Air Service (EAS) program was rejected, as was a proposal to reduce the federal share at non-primary airports.

The four-year House FAA reauthorization bill (HR 658) which was reported out of the Transportation and Infrastructure Committee on Feb. 16, would: cut AIP funding by $500 million as compared to last year; sunset EAS by Oct. 1, 2013; leave the PFC cap in place; and allow ten beyond-the-perimeter flights into Reagan National that would be offset by reducing by ten the number of flights from within the perimeter.

Work on FAA reauthorization advanced in the House the week of March 14 with the Ways and Means committee reporting out the revenue title (HR 1034) of HR 658, a four-year proposal. HR 1034 omits the increase in jet fuel taxes in the two-year Senate proposal, S 223. Meanwhile, the T&I committee also reported out another short-term extension (HR 1079) in anticipation of the expiration of the current measure on March 31. HR 1079 now goes to Ways and Means.

The current FAA extension expires March 31 and no final agreement has been reached on a full reauthorization bill. Therefore, Congress is expected to approve another stop-gap measure, HR 1079. This would be the 18th extension since the last FAA reauthorization expired more than three years ago. HR 1079 is a "clean" extension that would continue aviation programs and excise taxes through May 31, 2011.

On March 31 the president signed HR 1079, a clean extension of FAA programs and excise taxes through May 31, 2011. Although no final agreement has been reached on a full reauthorization bill, the House passed it's proposal (HR 658) on April 1, with numerous amendments.

FAA extension legislation went to conference last week after the Senate amended the House proposal, HR 658, on April 7. Differences between HR 658 and the Senate proposal, S 223, include: the future of the Essential Air Service program, jet fuel taxes, slots at Reagan National, and unionization rules.

The Senate has appointed conferees to resolve differences between the House and Senate versions of aviation reauthorization bill HR 658. Conferees from the House side have not yet been announced. The current extension expires May 30, 2011.

On May 24, 2011, Congress passed HR 1893, a short-term extension of aviation programs and funding through June 30, 2011. The “clean” bill authorizes $2.6 billion in contract authority for the AIP program for the period from Oct. 2010 through June 30, 2011. This is the 19th extension of Vision 100, which expired at the end of FY 2007.

On May 31, the president signed the 19th FAA reauthorization extension, PL 112-016, which gives Congress until June 30 to complete action on a multi-year FAA reauthorization bill. In the on-going FAA reauthorization conference negotiations, continuing areas of contention include funding levels, controversial labor provisions, and the fate of the Essential Air Service program. The House-passed bill eliminates EAS in October of 2013 except in Alaska and Hawaii. The Senate-passed bill continues the program with some revisions.

On June 24 the House passed HR 2279, extending FAA authorization for three weeks. The Senate is expected to act on the measure next week. The long-term reauthorization bill is still in conference, with the House and Senate so far unable to agree on the differences between the two bills, including the overall funding levels.

On June 29 the president signed a bill extending federal aviation programs through July 22, 2011. PL 112-021 is a clean extension which will carry the aviation programs forward while a conference committee works on finalizing a long-term reauthorization measure.

Congress is working on another short-term extension (the 21st) of the FAA reauthorization act. The decision regarding the duration of this extension is complicated by the fact that the current fiscal year ends on September 30 and the budgeting requirements for FY 2012 are uncertain. The current extension expires July 22, 2011.

Due mainly to a disagreement between the House and the Senate regarding the Essential Air Service (EAS) program, the most recent FAA reauthorization extension expired on July 22 without the passage of a new extension to replace it. On July 20, the House passed HR 2553 to extend the current FAA reauthorization act until September 16, 2011. However, the bill contains a policy rider that would reduce the number of airports included in the EAS program, which subsidizes air carriers for providing service to smaller communities. The lack of an approved extension or reauthorization bill impacts Airport Improvement Program payments to states, and has forced FAA to furlough thousands of non-essential personnel. Negotiations are continuing.

On August 5 the Senate passed an FAA authorization extension bill, HR 2553, ending the partial shutdown that began when the previous extension expired on July 22. Although both the Senate and House were in pro forma session only, leadership yesterday agreed on unanimous consent passage of the measure in the Senate, which had previously objected to provisions that would cut the number of airports eligible for Essential Air Service subsidies. However, under HR 2553, the Secretary of Transportation is allowed to waive the new criteria under certain circumstances. Extending FAA authorization means that AIP payments will now continue to flow to the states, FAA-directed projects can resume, and the revenue stream going into the Airport and Airways Trust Fund will be restored. The extension lasts until Sept. 16, 2011.

The current aviation reauthorization extension expires on September 16. In his August 31 speech on surface transportation, President Obama also called on Congress to pass another clean extension of the FAA bill. An August 31 press release by Congressman Mica mentioned his intention to “consult with committee leadership before granting the 22nd FAA extension.”

On September 16, Congress passed HR 2887 which extends surface transportation programs through March 31, 2012, with no policy or funding changes. Within the same bill was an extension of aviation programs to January 31, 2012, with no policy or funding changes.

A four-year FAA reauthorization measure, HR 658 (House Report 112-381), passed Congress 75-20 on February 6, and has been sent to the President for his signature. The bill authorizes $15.9 billion annually through FY 2015. Airport Improvement Program funding is set at current levels ($3.350 billion per year). The Essential Air Service Program (EAS) is retained, but new entrants are barred. Combined discretionary and mandatory EAS funds would rise very slightly to $199 million per year.

On Feb. 1, the president signed a four-year FAA reauthorization measure, HR 658 (House Report 112-381). The bill passed Congress 75-20 on Feb. 6, and authorizes $15.9 billion annually through FY 2015. Airport Improvement Program funding is set at current levels ($3.350 billion per year). The Essential Air Service Program (EAS) is retained, but new entrants are barred. Combined discretionary and mandatory EAS funds would rise very slightly to $199 million per year.

Surface Transportation Reauthorization
With MAP-21 due to expire on Sept. 30, 2014, Congress is holding an increasing number of hearings on surface transportation reauthorization issues. So far, however, there is no consensus in Congress on addressing the most significant of those issues – namely, the highway trust fund shortfall described above. Very few members of Congress have expressed support for raising the federal gas tax, or for any of the alternatives, including the option of trimming the program to match the revenue.

By contrast, at a Feb. 12 meeting of the Environment and Public Works Committee, representatives of diverse stakeholder groups such as the US Chamber of Commerce and the AFL-CIO advocated directly for an increase in the gas tax to maintain current investment levels. And the American Trucking Association and AAA have both endorsed HR 3636, a bill to double the tax, which was introduced last month by Representative Blumenauer of Oregon. No other members of the House have signed on as co-sponsors.

This week, the administration submitted a four-year, $302 billion surface transportation reauthorization proposal, GROW AMERICA. Much of the content, including funding levels, had been revealed in March as part of President Obama's FY 2015 budget.

For instance, the "Transportation Trust Fund" (replacing the Highway Trust Fund – see below) would be shored up for the duration of the bill with approximately $150 billion in general fund transfers based on increased revenue from yet-to-be-enacted business tax reform. Approximately $63 billion of this amount would be necessary just to maintain the solvency of the fund. The remainder would allow for modestly increased apportionments to states under existing programs, plus large increases in funding for certain new programs targeting mainly passenger rail, large urban transit systems and multimodal freight projects.

Reflecting the emphasis on new program areas, the Highway Trust Fund would be replaced with a Transportation Trust Fund consisting of four accounts: Highway; Mass Transit; Rail; and Multimodal. The Highway and Mass Transit accounts would receive gas tax and other user-generated revenue, supplemented with general fund transfers. The Rail and Multimodal accounts would be funded entirely with general fund transfers.

Receiving the most attention so far, however, are the tolling provisions detailed in GROW AMERICA. Currently, tolling is prohibited on existing interstates (paid for using federal funds) with some exceptions. The proposal would essentially allow conversion of any existing interstate lanes into toll lanes, with DOT approval. It would also expand allowed use of the revenue to include categories such as reconstruction, congestion management, or transit costs within the corridor. As the bill is analyzed, additional detail will be provided.

The House and Senate may offer their own reauthorization proposals in the next few months. However, due largely to the funding issues, a short-term extension of MAP-21 is more likely than enactment of a replacement any time soon.

On May 15, the Environment and Public Works Committee amended and approved its portion of the Senate's surface transportation reauthorization measure. S. 2322, a six-year proposal released earlier this week, would fund highway programs at current levels plus inflation. In addition, the Senate would create a formula National Freight Program that would begin in FY 2016 ($400 million per year, increasing by that amount each year through FY 2020); and competitive funding similar to the TIGER program called "Projects of National and Regional Significance" ($400 million per year). Of concern, however, is an amendment the committee adopted before approving the bill: it would permanently rescind states' obligation authority in an amount that would prevent the Highway Trust Fund from falling below acceptable levels. The Senate will continue to revise the language during consideration on the floor. Additional details will be provided as the bill text is analyzed.

Still to come are: the transit title (Banking, Housing and Urban Affairs Committee); and the rail and safety titles (Commerce, Science and Transportation Committee). It will be up to the Finance Committee to identify funding to address the Highway Trust Fund shortfall and pay for the bill.

The administration's reauthorization bill, GROW AMERICA, was released late last month. The Transportation and Infrastructure Committee has not yet offered a House proposal. Since it would be nearly impossible to craft a final bill before MAP-21 expires on Sept. 30, 2014, an extension is expected.

Since it will be nearly impossible to craft a final surface transportation reauthorization bill before MAP-21 expires on Sept. 30, 2014, an extension is likely. However, here is the status of proposals for a replacement:

Senate - The Environment and Public Works Committee reported out its six-year highway title on May 15. The other committees have a ways to go. The Banking, Housing and Urban Affairs Committee, which writes the Senate's transit title, held a hearing on May 22. The Commerce, Justice and Science Committee, which is responsible for the rail and safety titles, will conduct a safety hearing June 3 at 8:30 (central time). No related hearings have been scheduled by the Finance Committee, which must identify the funding to address the Highway Trust Fund shortfall and pay for the bill.

House - The Transportation and Infrastructure Committee, which writes the entire House bill, has not yet offered a proposal.

Administration - GROW AMERICA, a four-year bill, was released late last month.

Water Resources Development Act reauthorization
The Environment and Public Works committee reported out S 601 on March 20. The Water Resources Development Act (WRDA) authorizes the civil works program of the Army Corps of Engineers, which includes river operations and issues.

The Senate is set to vote Thursday on S 601, the bill to reauthorize the civil works program of the Army Corps of Engineers, which includes river operations and issues. Provisions aimed at increasing revenue into the Inland Waterways Trust Fund may be proposed on the floor.

Senate work on amendments to the Water Resources Development bill continued the week of May 6. So far, proposals to raise the rate of fuel taxes going into the Inland Waterways Trust Fund (IWTF) have met resistance by leadership, since the Constitution requires tax legislation to originate in the House. (The trust fund pays for improvements to locks, dams and navigation channels.) However, the manager's amendment, which was agreed to on Wednesday by unanimous consent, includes a provision that funds the enormous Olmsted lock and dam project on the Ohio River (near Olmsted, Illinois) entirely from the general fund, freeing up IWTF revenue for use on other projects.

On May 15, the Senate amended and passed S 601, the Water Resources Development Act of 2013 (WRDA) authorizing the Army Corps of Engineers' civil works program, including river operations and issues. The vote was 83-14, with Senator Harkin and Senator Grassley both voting "yes."

As passed, the bill:

- authorizes Corps activities and projects;
- funds the Olmsted lock and dam project on the Ohio River (near Olmsted, Illinois) entirely from the general fund, freeing up Inland Waterway Trust Fund (IWTF) revenue for other projects;
- includes a pilot program to evaluate non-federal interests carrying out certain projects including inland harbor navigation, flood risk management and other activities;
- authorizes federal support for state levee safety programs and grants;
- streamlines certain environmental requirements; and
- creates a loan and loan guarantee program called WIFIA for certain water projects that produce a revenue stream and cost at least $20 million.

A proposed Senate amendment to increase the per-gallon diesel tax going into the IWTF was dropped due partly to concerns about the requirement that tax legislation originate in the House. The House Transportation and Infrastructure Committee has jurisdiction on the House side and will write its own bill.

Transportation and Infrastructure (T&I) Committee leadership says the long-awaited House version of the bill to reauthorize water resources development programs will go to the committee in September and come to the floor in early October. Committee chairman Bill Schuster said the bill will contain no earmarks and will make major reforms to water resources development activities, especially with regard to streamlining project delivery.

The House version of the water resources reauthorization bill was introduced Sept. 11. HR 3080, the Water Resources Reform and Development Act (WRRDA) authorizes the civil works program of the Army Corps of Engineers, which includes river operations and issues. The House Transportation and Infrastructure Committee is scheduled to mark up the bill on Sept. 19.

In contrast to previous reauthorization acts, which consisted mainly of earmarks, the proposal addresses many policy issues (such as streamlining the environmental review process), and mentions few specific projects. One issue not addressed, however, is the need for additional revenue into the Inland Waterway Trust Fund. Transportation and Infrastructure Committee Chairman Bud Shuster said that while there is support for an increase in the diesel tax supporting the trust fund, the Ways and Means Committee would have to initiate any tax-related proposals.

The Senate passed its version of WRDA reauthorization, S. 601, on May 15.

The House Transportation and Infrastructure Committee reported out the water resources reauthorization bill last Thursday. HR 3080, the Water Resources Reform and Development Act (WRRDA) authorizes the civil works program of the Army Corps of Engineers, which includes river operations and issues. Few changes were made during mark-up.

The House could take up its Water Resources Development authorization bill (WRRDA) next week. Amendments must be filed on HR 3080 by Tuesday morning.

The Water Resources Reform and Development Act of 2013 (WRRDA) passed the House on Oct. 23 by an overwhelming margin, 417-3. While previous reauthorization acts have consisted mainly of earmarks, HR 3080 mentions few specific projects and consists mostly of policy changes aimed at lowering the cost and time required for project completion. As passed, the bill:

- authorizes Corps activities and projects (23 specific projects with completed Chief's Reports are listed, including a flood risk management project in Cedar Rapids)
- increases the federal share of fund for the Olmsted lock and dam project on the Ohio River (near Olmsted, Illinois) to 75v percent (up from 50 percent), to leave more of the Inland Waterway Trust Fund (IWTF) revenue for other projects
- includes a pilot program to evaluate non-federal interests carrying out certain projects
- streamlines many environmental requirements

The en bloc amendment adopted on the floor includes provisions to prevent the spread of Asian Carp, and require coordination between the Corps and FEMA when informing the public about flood risk. A proposal to designate a water-based freight network (modeled on the MAP-21 Primary Freight Network) was defeated.

The next step will be appointment of a conference committee to work out the differences between HR 3080 and the Senate's bill, S. 601 which was passed in May.

All conferees have been appointed to negotiate a compromise between the House and Senate versions of the water resources development bill now called HR 3080. House members who will serve (chosen yesterday) include 25 members of the Transportation and Infrastructure Committee and three members of the Committee on Natural Resources. Senate members were appointed Nov. 4 and include eight members of the Environment and Public Works Committee. None of the conferees are from Iowa.

The Water Resources Reform and Development Act of 2013 (WRRDA) passed the House on Oct. 23 by an overwhelming margin, 417-3. The Senate passed S. 601 in May, also by a bipartisan vote of 83-14. One major difference between the two versions is their approach to project authorization. While both establish a set of criteria for choosing future projects, the Senate would technically leave the final choice to the Army Corps of Engineers, while the House would give the final say to Congress. (In fact, the House bill actually names 23 specific projects, including $67.2 million for flood risk management on the Cedar River in Cedar Rapids.) Other differences: the Senate includes a comprehensive national levee safety program which the House does not, and S 601 adds language throughout requiring a watershed approach to planning and projects – HR 3080 does not generally require this.

The Water Resources Development Act bill is still in conference, but sign-off by the US Army Corps of Engineers on 14 new projects is likely to spur final action. USACE approval of the projects, some of interest to conference committee leadership, makes them eligible for inclusion in the list of projects authorized by the bill. However, a new issue has arisen over language related to use of the Apalachicola-Chattahoochee-Flint River System in Alabama, Florida and Georgia. Senator Boxer has relinquished floor time previously scheduled for WRDA debate.

Also on Thursday: after nearly a year of negotiations, the conference report for HR 3080, the Water Resources Reform and Development Act (WRRDA), was introduced in the House by Transportation and Infrastructure Committee Chair Bill Shuster. H. Rept. 113-449 incorporates significant reforms to the process for approving and implementing water infrastructure projects.

It also authorizes 42 new or revised projects which have received U.S. Army Corps of Engineers sign-off via Chief's Reports. Two projects in Iowa are included: a flood risk management project involving the Cedar River in Cedar Rapids ($73,130,000 federal share, $39,380,000 non-federal share); and a flood damage reduction and recreation project involving the Des Moines River and the Raccoon River in Des Moines ($14,990,000 federal share, $8,254,700 non-federal share).

Expedited floor action in the House is set for Tuesday, and it could go to the Senate floor the next day.

On May 22 the Senate finalized the conference report for the Water Resources Reform and Development Act of 2014 (HR 3080, Rpt. 113-449) and sent it to the president for signature. Like the House vote (412-4), the Senate's 91-7 tally reflected bipartisan support for the compromise measure.

The first such bill since 2007, WRRDA is aimed at streamlining environmental review and development of water resources projects. For instance, certain reviews must take place concurrently, and federal agencies are fined for exceeding agreed upon deadlines for decisions. Also, non-federal agencies can play a greater role in advancing projects.

While no earmarks are included, the bill authorizes construction (or modification) of 42 specific projects with completed Chief's Reports. Two of those projects are in Iowa: flood risk management on the Cedar River in Cedar Rapids (estimated federal share $73,130,000); and a modification to the authorized amount for the Des Moines River and Raccoon River Project (estimated federal share $14,990,300). Also included is a technical correction to the authorized boundary of the Fort Dodge Riverfront Project which will make additional elements of the project eligible for federal funds.

Despite the need for increased revenue into the Inland Waterway Trust Fund (IWTF), Congress declined to raise the barge tax. It did, however, assign to the general fund a larger percentage of the Olmsted lock and dam project on the Ohio River. Lowering the IWTF contribution from the current 50 percent down to 15 percent will free up approximately $105 million per year for use on other inland waterway projects.

Provisions related to the Mississippi River include requiring updated water level and vessel tracking, and conducting a study on management related to flooding and drought. Regarding the Missouri River, WRRDA authorizes cooperative agreements to advance the monitoring of soil moisture and snow pack in the plains.

President Obama signed the 2014 Water Resources Reform and Development bill (WRRDA) on June 10. The first such measure enacted since 2007, WRRDA includes provisions to hasten the completion of water projects, along with authorization for 42 specific projects. However, funding for these projects, and for programs in WRRDA, will be through the FY 2015 Energy and Water appropriations measure. While the Senate version of that bill is currently in limbo due to issues similar to those impacting transportation, floor action on the House version is expected the week of July 7.

Budget

Each year, the administration proposes a specific budget for federal programs in the coming year, plus aggregate spending levels for the out-years. It generally serves as a starting point for the topline amount and policy direction for the appropriations process.

Earlier this month, President Obama released his budget proposal for FY 2015. The implications are slightly different this year, with the administration taking its cue on the total amount from the Ryan-Murray budget agreement (signed in December 2013) which set that limit at $1.014 trillion. The request would fund most programs within that limit, but cites revenue from “pro-growth corporate tax reform” to offset new programs and higher funding levels for some existing programs.

The transportation section, which actually specifies funding levels for FY 2015-2018, can be seen as a preview of the administration’s surface transportation reauthorization bill. However, since any reauthorization proposal will hinge on the solvency of the Highway Trust Fund, the most significant aspect of the budget request is, arguably, the proposal to fill the gap between trust fund receipts and outlays. The administration would add to the trust fund approximately $150 billion in new revenue during FY 2015-2018, singling out approximately $63 billion of that amount for maintaining the solvency of the fund. The president has emphasized that he is willing to look at other sources of funding proposed by Congress.

Within the same week, Representative David Camp, the chairman of the House Ways and Means committee, released a comprehensive tax reform “discussion draft” that also adds to the Highway Trust Fund using tax reform revenue – specifically, changes to taxation involving repatriated funds. However, Camp would spread a smaller estimated amount ($126.5 billion) over a longer period (nine years). So the approximately $35 billion that would be added by Camp during FY 2015-2018 would fill the “glass” little more than halfway to the top.

The good news is: the two proposals both address the trust fund shortfall and rely on roughly the same taxation change to provide the necessary revenue, suggesting some momentum. The bad news is: the trust fund is expected to become insolvent possibly as early as July 2014 – almost certainly before enactment of a new reauthorization bill. Also, any specific increase in corporate taxation will be difficult to enact on its own, and the chance that Congress will pass a comprehensive tax reform package is remote at best.

However, the administration's proposed budget would tap this same source to boost transportation funding (by approximately $90 billion), with the largest increases by far going to passenger rail, urban transit systems, and multimodal projects. (Another trend: increasing the share of funds distributed via competitive programs rather than formula.) The entire package totals about $302 billion.

Administration funding proposals include:
Rail – **243 percent increase** for additional Amtrak funding, plus: a new Rail Service Improvement Program (mostly passenger rail but some funds for rail line relocation, grade crossings, and upgrades for shortlines).

Transit – **68 percent increase** for additional funds for some existing programs (State of Good Repair, Bus and Bus Facilities and New Starts), plus: a new Bus Rapid Transit discretionary grant program specifically for fast-growing areas; and "FAST" discretionary grants for innovative projects with an incentive for performance management.

Highway – 21 percent increase for a higher obligation limitation, plus: apportioned "Fix it First" funds for Interstate System bridges, and other projects on NHS and rural roads; new competitive multimodal freight grants; and "FAST" discretionary grants for innovative projects with an incentive for performance management.

Aviation - (funded through the Airport and Airway Trust Fund) – overall funding for the Airport Improvement Program would actually decrease by 13 percent, but large hub airports would no longer receive passenger and cargo entitlement, a change intended to leave enough AIP funds to actually increase apportionments to the smaller airports. In exchange, the Passenger Facility Cap would be raised for large hub airports, allowing them more flexibility to increase revenue.

TIGER – 100 percent increase for these discretionary grants for multimodal projects (to $1.2 billion per year)

Administration policy proposals (many of which have appeared in past requests) include:
- Replacing the Highway Trust Fund with a Transportation Trust Fund that would receive increased general fund transfers to support the addition of rail and multimodal projects
- Creation of an interagency center to improve the permitting process for infrastructure projects
- Continuation of TIFIA
- Capitalization of a National Infrastructure Bank ($10 billion)

Highway Trust Fund
The chair of the Senate Finance Committee intends to propose a funding source by the end of June to keep the Highway Trust Fund (HTF) solvent and address long-term revenue needs. Senator Ron Wyden says all options are on the table for committee members to consider. Without an infusion of funds, the HTF is expected to become insolvent as soon as late July. The Finance Committee is responsible for identifying funding for the Senate reauthorization bill.

The statement came a few days after House leadership signaled its intent to introduce a bill within the next two months that combines a short-term extension of MAP-21 with a $12 billion bailout of the HTF. Speaker of the House John Boehner spoke in support of offsetting the cost in part by ending Saturday delivery of most mail and transferring $1.3 billion from the Leaking Underground Storage Tank fund.

On June 19, Transportation Secretary Anthony Foxx sent a second letter to state DOTs regarding the Highway Trust Fund shortfall, stating that “in about a month” the balance of the highway account of the trust fund is expected to dip below a critical threshold, and repeating the warning that if the trust fund becomes insolvent, US DOT will likely need to delay some reimbursements to states. The letter notes US DOT’s goal of providing as much notice as possible and, in the next few weeks, providing specific guidance on its cash management approach.

Also this week, Senator Corker and Senator Murphy unveiled a bipartisan proposal to raise the gas tax by a total of 12 cents per gallon and link it to the Consumer Price Index. While the added revenue into the Highway Trust Fund would not address the impending July insolvency, it would generally offset spending at MAP-21 levels over a ten-year period. To encourage support for the gas tax increase, the senators propose other measures such as making permanent some provisions of the “tax extenders” bill, or reducing taxes by at least the amount of revenue raised from the gas tax.

The Senate Finance Committee took a step the week of June 23 toward keeping the Highway Trust Fund solvent. At a meeting on Thursday, the group discussed a proposal by committee chairman Ron Wyden (along with several amendments); and a counter-proposal by ranking member Orrin Hatch.

According to statements and summaries, Senator Wyden’s latest draft provides an $8.4 billion bailout from the general fund using: a transfer from the Leaking Underground Storage Tank (LUST) fund ($750 million); plus certain tax compliance measures implemented over a 10-year period ($7.6 billion). The 53 amendments offered include: raising the federal gas tax by 12 cents per gallon over three years; raising the barge tax to 29 cents per gallon to increase revenue to the Inland Waterway Trust Fund; exempting emergency infrastructure repairs from certain environmental regulations; and allowing states to opt out of the federal transportation program.

An earlier draft by Wyden would have increased the Heavy Vehicle Use Tax, but this pay-for was dropped in the modified version presented at the meeting Thursday afternoon, and the planned vote was delayed to allow consideration of alternative proposals and amendments.

Senator Hatch’s proposal would reportedly provide a bailout totaling more than $9 billion from the general fund based on: a transfer from the LUST fund ($1 billion); paying for non-construction costs from the general fund rather than the Highway Trust Fund ($840 million); plus ten years of revenue from expanded oil and gas exploration ($3.2 billion) and from various tax measures ($4.3 billion).

Efforts to find common ground will continue during the week-long 4th of July recess, and Senator Wyden intends to reconvene the committee “early in the week of July 7.”

According to the Congressional Budget Office (CBO), it will take about $8 billion to keep the trust fund solvent through Dec. 31, 2014, assuming a short-term extension of MAP-21 beyond the end of the current fiscal year. (So far, neither draft has been described as including an extension.) Despite the introduction of various bills to increase revenue into the trust fund, CBO estimates that even hiking the federal gas tax by 6 cents per gallon would raise only $4 billion between now and the end of the fiscal year.

A letter from Transportation Secretary Anthony Foxx to state DOT directors last week warned that well before the end of July the Highway Trust Fund is expected to dip below “a critical threshold” that will trigger delayed reimbursements to states.

Congress is closing in on a short-term measure to keep the Highway Trust Fund solvent. Committees in both the House and the Senate approved bailout plans by voice vote last week, with the Senate version now very similar to the House bill.

The most recent point of contention has been timing. HR 5021, offered by Chairman Camp of the House Ways and Means Committee, specifically extends expenditure authority through May 31, 2015, and would transfer about $10.8 billion into the trust fund (presumed to maintain current program levels for that time period). This would delay the need to write a new reauthorization bill until after the next Congress is in place. In the Senate, an earlier proposal by Chairman Wyden of the Finance Committee would have lasted only through Dec. 31, 2014. However, after a compromise with Ranking Member Hatch, the committee took up a version that provides funding for a similar timeframe as the House (although the overall amount is very slightly higher).

Both proposals would add about $8.8 billion to the highway account of the trust fund, and $2 billion to the transit account, with the funds coming from transfers from the General Fund (approximately $9.8 billion) and from the Leaking Underground Storage Tank Fund ($1 billion). For those General Fund transfers, the two chambers relay mainly on 10 years of revenue from various sources, including “pension smoothing” (which was also used as an offset in enacting MAP-21) and an extension of customs duties. However, the Senate would: rely somewhat less on pension smoothing and more on various other fees and penalties; lower the tax rate for liquefied natural gas and propane; and make other changes to tax rules intended to increase compliance.

The House Rules Committee is scheduled to decide this afternoon on the process for amendments and other floor action, which could take place as early as tomorrow. Only a couple of weeks remain before FHWA begins the process of limiting reimbursements to states, and before the annual August recess.

By a decisive vote of 367-55, the House passed its Highway Trust Fund bailout measure on Tuesday. HR 5021 provides a “clean” extension of MAP-21 through May 31, 2015, and would transfer about $10.8 billion into the trust fund (an amount presumed to maintain current program levels for that time period). The transferred funds would consist of $1 billion from the Leaking Underground Storage Tank Fund, and $9.765 billion from the general fund, offset with 10 years of revenue from “pension smoothing” and extended customs duties. President Obama has said he would sign the bill.

The path in the Senate is less straightforward. Majority Leader Reid has been working to secure a unanimous consent agreement to bring up the House-passed proposal. However, the

Senate adjourned for the week before consensus was reached on the number and type of amendments that would be allowed.

A common theme of statements on the floor and in committee is that while a short-term rescue is essential, it should not be an excuse to delay work on a longer-term reauthorization bill and revenue source. In fact, Senator Boxer and others have advocated for a short-term bill lasting only to Dec. 31, 2014, to force quicker action on a replacement for MAP-21.

The legislative week ended with no final action on HR 5021, the bill aimed at keeping the Highway Trust Fund solvent through May 31, 2015. On Wednesday, Senate Majority Leader Reid announced an agreement on the terms of the debate: votes will be taken on four specific amendments (below), with 60-vote thresholds for the amendments and final passage. The four amendments are:

- Wyden-Hatch – replace the revenue provisions with those in the "PATH Act," a similar measure approved in committee earlier this month which differs mainly from HR 5021 in the specific offsets (less reliance on "pension smoothing" and more on tax compliance and other fees and penalties) and a reduction in the tax on liquefied natural gas and propane.
- Boxer-Carper – shorten the duration of the extension to Dec. 31, 2014.
- Lee – devolve to the states the taxing and spending authority for transportation programs.
- Toomey – exempt from NEPA certain emergency repairs to roads, highways, railways, bridges, or transit facilities.

Floor action is expected the week of July 28. Adoption of any of the amendments would mean sending the bill back to the House, bringing final passage perilously close to August 1, when USDOT will implement "cash management" measures, and the month-long August recess begins.

Congress kept the Highway Trust Fund issue in play until the very last minute this week, passing HR 5021 on Thursday to keep funds flowing to states until about May 31, 2015. The decisive vote came just a few hours before legislators walked out the door for the annual August recess - and just days before USDOT took action to slow highway funding reimbursements to states.

Earlier in the week, the Senate overwhelmingly approved an amendment to HR 5021 that would have shortened the duration to mid-December, 2014, thereby encouraging quicker action on a longer-term solution. Specifically, the amendment would have extended spending authority only to Dec. 19, 2014, and was intended to provide revenue for approximately the same time period by lowering the amount by about $3 billion. This was accomplished by removing the "pension smoothing" revenue provision. However, the Congressional Budget Office ruled that another offset (involving customs fees) raised less revenue than assumed in the Senate's calculations.

Subsequently, the House rejected the Senate's version, prompting the Senate to withdraw the amendment by a vote of 81-13, effectively sending HR 5021 directly to the president's desk for signature.

Prepared by:
Office of Policy and Legislative Services
Iowa Department of Transportation
http://www.news.iowadot.gov/federal_updates/index.html